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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,795	12/01/2003	Robert H. Murray	MSD01	3701
7590 Robert H. Murray 52 Manor Hill Drive Fairport, NY 14450		09/14/2007	EXAMINER CEGIELNIK, URSZULA M	
			ART UNIT	PAPER NUMBER 3711
			MAIL DATE 09/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/724,795	MURRAY ET AL.
	Examiner Urszula M. Cegielnik	Art Unit 3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 22 May 2007.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 20-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

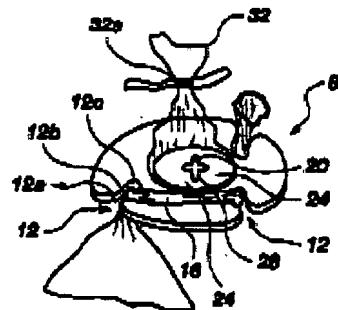
- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 21, 23, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carroll et al. in view of Balderree, Jr. (US Patent No. 2,981,990), Wilson, Jr. (US Patent No. 363,495) and Japanese Publication No. 08-206368, hereinafter JP '368.



Carroll et al. disclose a toy balloon closure and sealing device comprising a generally flat member (8) having a first end, a second end opposite the first end, a first side edge and a second side edge opposite the first side edge; a balloon neck receiving aperture (12) formed through the generally flat member (8) and between the first end and the second end; inserting passage means (*the slotted portion proximate reference numeral 8 as illustrated in Figure 2*) for inserting a balloon neck (16) from the first end into the balloon neck receiving aperture (12); at least one (12) nonaligned with the

inserting passage (*the slotted portion proximate reference numeral 8 as illustrated in Figure 2*), for creating at least one angled sharp end (as illustrated by reference numeral 12 in Figure 2) ~~and seal~~ and seal in a balloon neck being stretched from the balloon neck receiving aperture (12) for reinsertion *through the inserting passage means (the slotted portion proximate reference numeral 8)* (*the balloon neck is capable of being reinserted through the inserting passage means in that it has all of the claimed structure*) and through the balloon neck receiving aperture (12); thereby effectively closing and sealing the balloon neck (16) without tying and without the risk of the balloon neck unraveling and causing premature balloon deflation.

Carroll et al. do not disclose a slit having no width; a tongue; a safety device in the form of a repulsive taste agent applied to the generally flat rectangular member.

Balderree, Jr. teach a closure structure for bag-like structures having a slit (11b) that has no-width (i.e. narrow - col. 2, lines 71-72).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a slit having no width as taught by Balderree, Jr., since Balderee, Jr. states at col. 3, lines 9-11, that such a modification would prevent release of the bag in sealed condition.

Wilson , Jr. teaches a fastening device for cylindrical or neck-like support structures. The fastening device has optionally a substantially rectangular configuration (as shown in Figure 2, for example) and has a tongue (H') that permits an elongate portion (i.e. rope) to be positively secured (i.e. clamped) while entwined to a neck-like structure.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a tongue as taught by Wilson, Jr., since such a modification would permit an elongate portion to be positively secured (i.e. by clamping).

Furthermore, it would also have been obvious to one having ordinary skill in the art at the time the invention was made to provide a substantially rectangular configuration as taught by Wilson, Jr. as a matter of obvious design choice.

JP '368 teaches coating small articles (e.g. a toy) coated with a bitter emetic material.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the flat member with a coating of a repulsive taste agent as taught by JP '368, to prevent a small article being ingested by a child.

The recitation "a tongue portion...for positioning two different portions of a twisted balloon neck..." (for example only) is directed to the intended use and there are no structural limitations directed to the tongue portion as claimed. Applicant needs to distinguish over the prior art with structural limitations (*In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997)

Claims 22, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 21 above, and further in view of Williams (US Patent No. 4,936,532).

The modified invention of Carroll et al. lacks a tail portion.

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Williams teaches a balloon fastener having a tail portion having a slot (the portion encompassing reference part 5) with a taper (the portion encompassing reference part 7) which is capable of being mounted to a substrate such as a ceiling or wall (i.e. which is comparable to a pegboard).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a tail portion with a slot and a taper as taught by Williams, since such a modification would allow the balloon to be fastened to a variety of substrates.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 23 above, and further in view of Bloch et al. (US Patent No. 5,962,099).

The modified invention of Carroll et al. lacks the repulsive taste agent (coating) applied to an adhesive tape.

Bloch et al. teach an adhesive tape having a coating on another side thereof.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the abovementioned claimed feature as taught by Bloch et al., since such a modification would allow coatings to be applied by adhesive tape.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the repulsive taste agent to be placed on adhesive tape, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

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Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 28 above, and further in view of Clodfelter et al.

The modified invention of Carroll et al. lacks the bittering agent being denatonium benzoate.

Clodfelter et al. teach a bittering agent in the form of denatonium benzoate childproofing closure caps (col. 2, lines 6-10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a bittering agent in the form of denatonium benzoate as taught by Clodfelter et al., since Clodfelter states at col. 2, lines 9-10, that such a modification would not provide any harmful effects on small children.

#### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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